

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSE DELESTRE-REYES,

Defendant.

CRIMINAL No. 99-322 (PG)

**MOTION SUBMITTING STIPULATION REGARDING REDUCTION OF SENTENCE
UNDER 18 U.S.C. § 3582(c)(2)**

TO THE HONORABLE JUAN M. PEREZ GIMENEZ
UNITED STATES DISTRICT JUDGE
FOR THE DISTRICT OF PUERTO RICO

COMES NOW *Jose Delestre-Reyes*, the defendant herein, represented by the Federal Public Defender for the District of Puerto Rico through the undersigned attorney, and very respectfully states, alleges and prays as follows:

1. On November 1, 2007, the United States Sentencing Commission lowered the offense level for crack cocaine by two levels pursuant to Amendments # 706 and 711. See USSG. App. C, amends. 706, 711 (Nov. 1, 2007). Said amendment was made retroactive effective March 3, 2008. See USSG. § 1B1.10.

2. The authority of the Sentencing Commission to make such amendment retroactive is found in 28 U.S.C. § 944(u). It is important to note that both decisions of the Sentencing Commission, to lower the offense levels for crack and to make the amendment retroactive, are based on the recognition that the 100-to-1 powder/crack ratio resulted in

over-incarceration and unwarranted sentencing disparities that urgently needed to be alleviated. USSG, App. C, Amend. 706 (Nov. 1, 2007); *see also* USSG, *Report to Congress: Cocaine and Federal Sentencing Policy* at 10.

3. The defendant in the present case, Mr. Delestre, was sentenced on February 13, 2003 by this Honorable Court to a term of imprisonment of 121 months. His sentence was the result of a conviction for an offense involving crack cocaine and according to the Pre-Sentence Investigation Report (hereinafter "P.S.R."), the defendant was subjected to an adjusted offense level of 29. The P.S.R. further calculated defendant's Criminal History Category at IV. Accordingly, the imprisonment range dictated by the Sentencing Table was 121 to 151 months imprisonment. The Court sentenced the defendant to the lower end of the applicable range.

4. Pursuant to the terms of the Administrative Order issued by the Chief Judge of this Court in Misc. Case No. 08-31 (JAF), the parties have reached a timely stipulation regarding defendant's petition for a reduction of sentence. Said stipulation is included herein as Exhibit 1 and provides in pertinent part that the **parties have agreed to a sentence of 100 months.**

5. Inasmuch as the defendant has a **projected release date of August 8, 2008**, it is respectfully requested that the judgment in this case be expeditiously amended so that the defense can immediately procure the release of the defendant.

WHEREFORE, it is respectfully requested that this Honorable Court take notice of the present motion requesting clarification of judgment and that the same be granted.

I HEREBY CERTIFY that on this date I electronically filed the present motion with the Clerk of Court using the CM/ECF system, which will send notification to all parties of record.

RESPECTFULLY SUBMITTED

In San Juan, Puerto Rico, this 8th day of March, 2008.

JOSEPH C. LAWS, JR.
FEDERAL PUBLIC DEFENDER

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